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**JAN 30 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Mark L. Witten :  
Application No: 10/539,734 :  
Filed: December 21, 2005 :  
Attorney Docket No. 12241-008-999 :

**ON PETITION**

This is a decision on the petition, filed November 5, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply to the non-final Office action mailed March 27, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 6, 2008. In response, on November 5, 2008, the present petition was filed wherein petitioner asserts that a reply was timely filed.

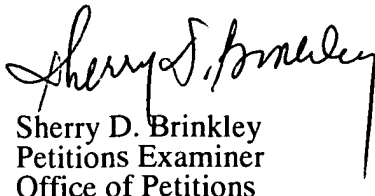
Petitioner is correct, in view of the filing of an appropriate request for extension of time and fee on September 29, 2008, the response period of June 27, 2008 was properly extended, as September 27, 2008 was Saturday. Since Monday, September 29, 2008 was the next business day, the response filed thereon is considered timely.

Consequently, the holding of abandonment for failure to timely file a response to the Office communication of March 27, 2008 is withdrawn and the application is restored to pending status.

The Notice of Abandonment mailed October 6, 2008 is hereby vacated.

This application is being referred to Technology Center AU 1654 for appropriate action in the normal course of business on the reply received September 29, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions